

Chapter highlights

- **Purpose:** This chapter provides guidance for conducting requests for information, prequalification of suppliers and unsolicited proposals.
- **Key points:**
 - A request for information (RFI) is a standard business process to collect written information about the capabilities of various suppliers.
 - Prequalification is a procedure to qualify products or suppliers and limit consideration of bids or proposals to only those products or suppliers which have been prequalified.
 - An unsolicited proposal is a proposal received that is not in response to any agency or institution-initiated solicitation.

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18.0 Introduction

This chapter provides an overview of requests for information, prequalification of suppliers or products and unsolicited proposals for the procurement of information technology (IT) goods and services.

18.1 Requests for information

A request for information (RFI) is a standard business process to collect written information about the capabilities of various suppliers to provide identified IT solutions, services or products. The RFI acts as a formal inquiry to the marketplace to determine which suppliers and/or IT products, services or solutions are available in the market to solve an agency's IT business problem. The information obtained through an RFI may be used in developing a subsequent purchase requisition, invitation for bid (IFB) or request for proposal (RFP) after determining that IT suppliers or solutions are available to satisfy the IT business problem. The results of an RFI cannot be made into a contract. Responses to an RFI will assist the agency or institution in determining an appropriate course of action that may or may not involve a new procurement to solve their IT need. An RFI can be best described as a formal effort to seek ideas, perspectives and information on the proposed IT procurement from potential suppliers so that a formal project scope and set of requirements may be developed.

18.1.1 When to use an RFI

Generally, an RFI is used when reliable knowledge is needed regarding the availability of unique IT suppliers, solutions, services or products and little is known about them in the general market or IT industry. There are certain specific instances where the use of an RFI can be helpful:

- When an agency lacks in-house expertise or resources qualified to determine what type of solution may achieve its IT project's business goals and/or what types of solutions are available in the marketplace.
- When supplier responses to an RFI will assist an agency or institution in developing future IFB or RFP requirements. Suppliers may propose multiple solutions in response to an RFI inquiry and need not be limited to proposing one solution. Each solution proposed may be an option for consideration and may help an agency shape their requirements.
- When suppliers can educate an agency or institution on available options that will help mitigate risks and/or reduce overall technical needs.

18.1.2 General guidelines for developing an RFI

While each project's business objectives are unique and the resulting RFI should be aligned with those unique needs, there are general recommended guidelines to follow in preparing a successful RFI:

- Be concise and include a clear statement of the problem for which a solution may be solicited in the future.
- Request that suppliers respond to questions concerning the particular IT topic, business need or solution being considered.
- Ask suppliers to provide information on their qualifications, experience and ability to solve the IT problem posed by the RFI.
- Ask suppliers to provide lessons learned, white papers or other credible data regarding the solution being considered to obtain sound information, facts and knowledge-share.
- Do not ask for any cost or pricing information as such information could create an unfair solicitation environment.
- Do not use the RFI to select an IT supplier or a solution.
- Any subsequent IFB or RFP may not be written to a particular supplier, product, service or solution discovered during the RFI process.

18.2 Prequalification of suppliers or products

Prequalification is a procedure to qualify products or suppliers and limit consideration of bids or proposals to only those products or suppliers which have been prequalified.

§2.2-4317(A) of the *Code of Virginia* provides that: "Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors."

Prequalification does not guarantee that a particular supplier will receive a contract or award, but rather qualifies a supplier to submit a bid or propose a solution for a specific solicitation under agreed-upon terms and conditions. Agencies may prequalify IT products or suppliers and then only solicit those who have been determined to have met the prequalification criteria. In such cases, a qualified contractors list (QCL) and/or a qualified products list (QPL) may be created. A QCL is a list of suppliers whose capability to provide an IT service has been evaluated and approved based on written prequalification procedures. A QPL is a list of IT products and/or services that have been tested and approved based on written prequalification criteria. The prequalification process allows for the listing of an unlimited number of potential IT suppliers that have agreed to meet the

agency or institution's specific technology requirements and have agreed to the terms and conditions as defined in the prequalification document. If the prequalification document includes terms and conditions which are not required by law, regulation or policy, those terms and conditions may be subject to negotiation before issuance of a solicitation.

18.2.1 Prequalification procedure

Agencies and institutions may contact VITA at scminfo@vita.virginia.gov to inquire about current prequalified IT suppliers and products or conduct a contract search of existing statewide contracts ([Contract Search](#)) that may serve their IT need(s). Any custom prequalification procedure utilized by an agency shall be established in writing and posted publicly and in eVA, sufficiently in advance of its implementation, to allow potential suppliers a fair opportunity to complete the prequalification process. The following prequalification procedure should be followed:

- Prior to the issuance of an IT solicitation, the agency will post a pre-qualification notice in eVA with the prequalification form attached. The form will set forth the criteria by which qualifications will be evaluated and when and to whom the form must be returned.
- Any prequalification notice will provide that all information voluntarily submitted that is labeled as trade secret or proprietary information by the supplier shall be considered a trade secret or proprietary information for the purposes of the prequalification.
- A prequalification notice may include a nondisclosure agreement, request for supplier's financial data and an intent to bid form which clarifies the supplier's point of contact information.
- At least thirty (30) days before the date established for submission of the bids or proposals under the prequalification solicitation, the agency shall advise those potential suppliers that submitted a prequalification application whether that supplier has been prequalified for that procurement. The agency will be the sole judge of when prequalification of IT suppliers, products or services is desired or required.

18.2.2 Criteria for denying a supplier prequalification

In the event a supplier is denied prequalification, written notification to the supplier shall state the reasons for the denial of prequalification and the factual basis of such reasons. The supplier may elect to appeal the agency or institution's prequalification decision as provided in §§[2.2-4357](#) and [2.2-4364](#) of the *Code of Virginia*. An agency may deny prequalification to an IT supplier only if one of the following applies:

- The supplier does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the supplier can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the public body shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement.
- The supplier does not have the appropriate background, experience or skills to perform the IT project in question.
- The supplier or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contract(s) for governmental or nongovernmental projects.
- The supplier has been in substantial noncompliance with the terms and conditions of prior contracts with a public body without good cause. A public body may not utilize this provision to deny prequalification unless the facts underlying the supplier's substantial noncompliance were documented in writing in the prior project or contract file and such information was provided to the supplier at that time, with the opportunity to respond.

- The supplier or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental contracting, including, but not limited to, a violation of (i) Article 6 (§ [2.2-4367](#) et seq.) of this chapter, (ii) the Virginia Governmental Frauds Act (§ [18.2-498.1](#) et seq.), (iii) Chapter 4.2 (§ [59.1-68.6](#) et seq.) of Title 59.1, or (iv) any substantially similar law of the United States or another state.
- The supplier or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any Commonwealth public body, agency of another state or agency of the federal government.
- The supplier failed to provide the information in a timely manner to the procuring agency or institution concerning any information requested by the public body relevant to any of the above provisions.

18.3 Unsolicited proposals

An unsolicited proposal is a proposal received that is not in response to any agency or institution-initiated solicitation. This policy for unsolicited proposals applies only to IT goods and non-professional services. Agencies and institutions may encourage the supplier community to submit unsolicited proposals offering new and innovative technology goods, services and solutions including those which would provide significant cost savings to the Commonwealth. Unsolicited proposals allow suppliers to introduce unique and innovative ideas or approaches that have been developed outside of government to be made available to agencies and institutions.

18.3.1 How unsolicited proposals are submitted and evaluated

Unsolicited proposals shall be submitted in writing directly to those agencies, departments and institutions who establish a primary point of contact to coordinate the receipt and handling of unsolicited proposals. A favorable comprehensive evaluation of an unsolicited proposal by the agency or institution does not alone justify awarding a contract. All contracts must be awarded through competition or other mechanisms, as described in section 18.3.3 below. No preference shall be given to the potential supplier that initially offered the unsolicited proposal should a subsequent solicitation be issued for the same product, service or solution; nor should the solicitation be written in favor of that supplier or its technical approach or specifications. All unsolicited proposals submitted to any agency or institution should be subject to the following conditions:

- All unsolicited proposals are submitted at the risk of and expense of the potential supplier.
- An unsolicited proposal is submitted with no obligation on the part of the agency, institution or the Commonwealth.
- Unsolicited proposals must contain no restrictions on the agency's, institution's or Commonwealth's use of any ideas or information contained in such proposals.
- The agency or institution may charge a fee for review of an unsolicited proposal. Proposals requiring technical review may be billed on an hourly basis as appropriate for time spent in review.
- All unsolicited proposals will be evaluated for their participation and inclusion of small businesses including small businesses owned by women, minorities and service-disabled veterans.
- If the unsolicited proposal contains an offer to loan or provide goods or services to an agency or institution at no cost or little cost, and this offer would tend to create a need for subsequent procurements, the requirement for such goods or services and any additional needs shall be offered for competition in accordance with the Virginia Public Procurement Act (VPPA). Potential suppliers shall be afforded an opportunity to participate in the resulting procurement process.

In order to constitute a true unsolicited IT proposal, the proposal must meet the following criteria to be accepted and reviewed by an agency or institution:

- The unsolicited proposal must be innovative and unique;
- The proposal must be independently originated and developed by the supplier presenting the proposal to the agency or institution.
- The proposal must have been prepared without government supervision, endorsement, direction or involvement
- The proposal must include sufficient detail to permit a determination by the agency or institution if consideration and review of the proposal would be worthwhile.
- The proposal must not be an advance proposal for a known agency IT requirement that can be acquired through competitive methods.
- The proposal must not address a previously published agency or institution IT requirement.
- All proprietary information included in the proposal which the supplier wishes to remain confidential shall be marked as proprietary. If the entire unsolicited proposal is marked proprietary, it will not be considered for review by an agency or institution.

18.3.2 Requirements for awarding an unsolicited proposal

Any resulting contract award and related award documents of unsolicited IT proposals by an agency or institution must adhere to the VITA delegation and CIO review and approval requirements. Normally, competition should be used. However, if it is determined by an objective evaluation process that the IT goods or services required by an agency or institution and offered in an unsolicited written proposal are practicably available from only the unsolicited source, the agency or institution may negotiate and award a contract following the sole source procedures, including budget and VITA delegation requirements, conditions and approvals. Any notice of award shall be posted in eVA for ten (10) calendar days.